

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STEPHEN KERSHNAR,

Plaintiff,

23-cv-525

-vs-

STEPHEN H. KOLISON, JR., in his individual capacity and his official capacity as the President of the State University of New York at Fredonia, and

**DECLARATION OF
JENNIFER METZGER KIMURA**

DAVID STARRETT, in his individual capacity and official capacity as Executive Vice President and Provost of the State University of New York at Fredonia,

Defendants.

JENNIFER METZGER KIMURA, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an Assistant Attorney General, of counsel to Letitia James, Attorney General of the State of New York, attorney for Stephen H. Kolison, Jr. and David Starrett (collectively “Defendants”) in this matter.
2. I make this declaration in support of the Defendants’ Opposition to Plaintiff’s Motion for a Preliminary Injunction and in support of Defendants’ Motion to Dismiss the Plaintiff’s Verified Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6).
3. Attached hereto as **Exhibit A** is a true and accurate copy of the relevant pages in Plaintiff’s book entitled Pedophilia and Adult-Child Sex: A Philosophical Analysis, Lexington Books, 2015.

4. Upon information and belief, data of tabulating number of on-campus minors was collected by SUNY Fredonia and submitted to counsel. Attached hereto as **Exhibit B** is a true and accurate copy of the data.

5. Attached hereto as **Exhibit C** is a true and accurate copy of the newspaper published by The Leader, SUNY Fredonia's Student-Run newspaper, on February 9, 2022, entitled "Kershner Controversy." It is also available at <https://fredonialeader.org/wp-content/uploads/2022/02/FredoniaLeaderMagazine2-9-22.pdf> along with the relevant excerpts of the html source code with the publication timestamp highlighted.

6. Attached hereto as **Exhibit D** is a true and accurate copy of an email that was sent to Defendant Kolison dated February 3, 2022, from Robert L. Szkutak, II., a Fredonia alumnus.

7. Attached hereto as **Exhibit E** are certain emails illuminating the threats of violence against the Defendants, SUNY Fredonia campus community, and Plaintiff himself.

DATED: July 24, 2023
Buffalo, New York

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EXHIBIT A

PEDOPHILIA
AND
ADULT-CHILD SEX

A Philosophical Analysis

STEPHEN KERSHNAR



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Acknowledgments

In writing this book, I am grateful to my mother, Arlene Kershner; brother, Eric Kershner; and sister, Sari Reikes. They are an endless source of ideas, humor, activities, and good food. I love my time with them and their families. We have had many momentous days (Thanksgivings, birthdays, weddings, Bar Mitzvahs, Super Bowls, etc.) and some hard days (funerals, unveilings, memorial services, etc.). They are ever present in my life and very much loved.

I am particularly grateful to friends and colleagues who have provided me with incredibly interesting and insightful feedback on this book. My colleague Neil Feit read and gave me comments on every chapter. Many of the ideas in it were hatched during our discussions, often while watching football, drinking wine, or hanging out in the office. That said, he should not be blamed for any of the ideas in this book. Two friends, George Schedler and Thad Metz, have been an invaluable source of comments, criticisms, and ideas. I am fortunate to have such generous and intelligent people with whom to exchange ideas. I also benefited from my colleagues, Ray Belliotti, Andy Cullison, and Dale Tuggy; brother, Eric Kershner; and the colorful cast of characters at the Buffalo reading groups (specifically, Plato's Academy North Tonawanda Campus and Blameless Buffalo), especially Jim Delaney, David Hershenov, Rose Hershenov, Jon Keller, Peter Koch, Catherine Nolan, Steve Peterson, Phil Reed, and Barry Smith. I am also grateful to Robert Audi, Michael Levin, Larry Lombard, and especially the late Louis P. Pojman for the way in which they encouraged me and gave my ideas careful consideration. I am very lucky that my path has crossed such generous and gifted scholars.

For feedback on these chapters, I am also grateful to attendees of lectures on this topic at meetings of the Beer Drinking Metaphysicians and the Western New York chapter of the American Catholic Philosophical Foundation for their extremely helpful comments and criticisms, especially Michael Barnwell, Alexander Bertland, Andy Cullison, Jim Delaney, Neil Feit, David Hershenov, George Schedler, Dale Tuggy, and John Zeis.

Parts of chapter 3 appeared as Stephen Kershner, "The Moral Status of Adult-Child Sex," *Public Affairs Quarterly* 15 (2001): 111–132, and parts of chapter 7 appeared as Stephen Kershner, "Rape Fantasies and Virtue," *Public Affairs Quarterly* 22 (2008): 253–268.

EXHIBIT B

Data of Minors on SUNY Fredonia Campus

Sum of # of minors	Column Labels						
Row Labels	Athletics & Recreation	Campus & Community Children's Center	Enrolled Students	School of Music	Youngerman Center Clinic	Youngerman Center Preschool	Grand Total
2021 Fall						9	9
2022 Fall	19,786	56	132	490	17	11	20,492
2022 Spring	13,875	53	15	291	13	9	14,256
2022 Summer		66			17	9	92
2023 Fall	19,500	81	125	533		12	20,251
2023 Spring	19,669	62	10	790	15	11	20,557
2023 Summer		20			21	11	52
2024 Spring						12	12
2024 Summer						12	12
Grand Total	72,830	338	282	2,104	83	96	75,733

EXHIBIT C

02.09.2022

Issue 7

Volume CXXIX

THE

LEADER

SUNY FREDONIA'S
STUDENT-RUN NEWSPAPER

Kershnar Controversy & More!

Breaking
Updates

Professors'
Response

Students'
Response

1st Amendment
& Academic
Freedom



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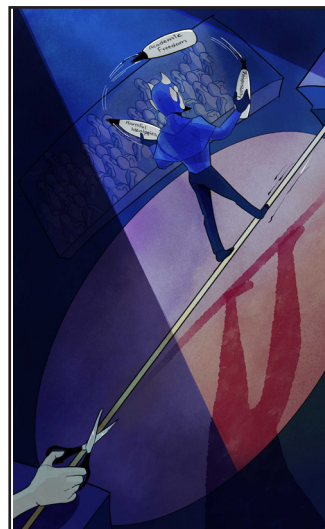
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Front cover: Headshot of Dr. Stephen Kershner with illustration filter.
Back cover: Political cartoon of the Kershner Controversy. By Lydia Turcios and Ash Maloney.



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If you dig down deep enough, you'll get to the surface (of the Earth).

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Important updates: Kershnar situation

ALYSSA BUMP

Editor in Chief

The following story consists of updates regarding the Kershnar situation. This article was written Feb. 6, 2022.

HARASSMENT ON CAMPUS

There have been rumours swirling around campus that a threat may have been posted in one of the academic buildings. For confirmation on this matter, The Leader reached out to Brent Isaacson, Chief of University Police. Questions were asked about if a threat was indeed made, if said threat had a connection to the Kershnar situation and what the current status of the investigation was.

Isaacson replied with, “UPD did receive a complaint regarding a note on one of our academic buildings. We are investigating it as a harassment, not a threat. As it is under investigation, I will not be able to provide further information at this time.” The Leader will be looking into more updates on this matter.

LETTERS SENT TO SUNY FREDONIA

The Academic Freedom Alliance (AFA) and the Foundation for Individual Rights in Education (FIRE) both sent letters to SUNY Fredonia, advocating for Kershnar’s rights of free speech and academic freedom.

The AFA letter was written by Keith Whittington, chairperson of the academic committee of AFA, and was sent to SUNY Fredonia on Feb. 3.

Whittington wrote in the two-page letter, “I write on behalf of the Academic Freedom Alliance to emphasize that Professor Kershnar’s scholarly research and teaching on these topics is fully protected by principles of academic freedom and his public discussion of his ideas on these issues is protected by principles of freedom of speech. There is, quite simply, nothing for the university to review under these circumstances.”

The letter also states, “The university’s obligation in the face of this controversy is to provide a forum in which ideas, however extreme or misguided they may be or seem to be, can be articulated, criticized and fairly debated.”

Whittington calls for SUNY Fredonia to release a public statement “clearly reaffirming Professor Kershnar’s academic freedom.” SUNY Fredonia has yet to release a public statement of this nature.

The FIRE letter, written by Adam Steinbaug, the director of the Individual Rights Defensive Program, spans seven pages. This letter was also sent to SUNY Fredonia on Feb. 3. Steinbaug’s letter goes in depth about the background behind the situation, the implications of the First Amendment and the issues of removing Kershnar from campus. Steinburg wrote, “By banning Kershnar from campus and initiating disciplinary procedures, including an ‘interrogation’ of Kershnar or ‘review’ of his extramural statements, SUNY Fredonia is in violation of the First Amendment.”

Steinbaug urges SUNY Fredonia to “avoid effectuating a heckler’s veto by returning Kershnar to the classroom and publicly committing to protect the First Amendment rights of



WKBW Channel 7 at the Kershnar protest in Barker Commons. Photograph by Tralee Cotter.

your faculty.” The letter also requests a “receipt of a response” from SUNY Fredonia “no later than the close of business on Monday, Feb. 6, 2022, confirming that SUNY Fredonia will not pursue an investigation or disciplinary sanction in this matter.” It is important to note that the Monday being referenced in the letter would be Feb. 7, not Feb. 6. It is unclear if SUNY Fredonia has responded or plans to respond to FIRE at the time of writing this article.

CHANGE.ORG PETITION UPDATE

The change.org petition titled, “Fire Professor Stephen Kershnar from SUNY Fredonia” has reached over 15,000 signatures. The petition was created on Feb. 3, meaning that it only took three days for 15,000 people to sign it. Before reaching this milestone, the petition read, “At 15,000 signatures, this petition becomes one of the top-signed on Change.org.”

PROTEST HELD IN BARKER COMMONS

On Sunday, Feb. 6, a protest was held in Barker Commons in Fredonia, N.Y. The event was not organized by one singular person, but rather was agreed upon by a group of students on Yik Yak.

The protest had a small turnout, and acted more as an open discussion about student issues such as campus safety and mental health.

WKBW Channel 7 attended the event, along with students and professors of SUNY Fredonia. To read more about the conversations, visit fredonialeader.org.

KERSHNAR REMOVED FROM CLASSES

On Monday, Feb. 7, The Leader received a screenshot of an email from the College of Liberal Arts and Sciences. The email was sent to a student enrolled in Kershnar’s PHIL-258 class. The email explained that the course will be taught by “a new instructor effective Tuesday, Feb. 8, 2022.” The email also listed that the class will be held as scheduled.

Upon further investigation by our reporters, it was also found that Kershnar’s name has been removed from YourConnection when searching for courses to register for. It is unclear why this change has been made and what it represents.

Overview: Kershna **“under review”** for defending pedophilia, sexism and slavery

ALYSSA BUMP

Editor in Chief

CHLOE KOWALYK

News Editor

This article was written on Feb. 3.

Professor-student sex, torture, pedophilia, slavery and sexism are among the views defended by SUNY Fredonia philosophy professor Dr. Stephen Kershna.

While Kershna claims to not directly support these views himself, he has published many articles, books and blog posts in which he argues for these controversial views.

Recently, videos of Kershna discussing adult-child sex resurfaced on Twitter and have gone viral.

In the video reshared by @libsof-tiktok, originally from the YouTube channel Brain in a Vat, Kershna discussed sex between an adult male and a 12 year-old girl. He told viewers to imagine she is a willing participant, rather than a person unable to consent. This goes against the many laws set in place across the U.S. limiting the age of consent to no lower than 16. Kershna then said, “It’s not obvious to me [adult-child sex] is in fact wrong — I think this is a mistake.” The tweet now has over 10,000 likes.

SUNY Fredonia’s Twitter account, @FredoniaU, released a statement on Feb. 1 at 11:09 p.m. from the university’s president, Dr. Stephen Kolison. The statement reads, “SUNY Fredonia is aware of a video posted online involving one of its professors. The views expressed by the professor are reprehensible and do not represent the values of SUNY Fredonia in any way, shape or form. They are solely the professor’s views. The matter is being reviewed.” The comments on this post have been limited by the SUNY Fredonia Twitter account.

On Feb. 3, Dr. Kolison emailed students, faculty and staff saying Kershna “is being assigned to duties that do not include his physical presence on campus and will not have contact with students while the investigation is ongoing” which would become “effective immediately

and until further notice.” Because of this restraint, Kershna is unable to provide a comment to The Leader, SUNY Fredonia’s student-run newspaper, despite being reached out to via email.

With the power of social media, Kershna’s video has blown up. Fox News was one of the first national news services to catch wind of the story. The New York Post, Newsweek, WKBW Channel 7, WGRZ Channel 2, WIVB Channel 4 and many other news sources have covered the story as well.

The story has even gone international, with coverage in Peru, Hungary and Turkey.

One question many people are asking is how Kershna’s controversial arguments have been able to fly under the radar for over 20 years. But the truth is they haven’t. This exact situation has been a long time coming.

Kershna was originally appointed to SUNY Fredonia in 1998 and became a full professor in 2005.

Back in 2006, Kershna and then-president of SUNY Fredonia, Dennis Hefner, faced a disagreement over the student conduct policy. In particular, Kershna had grievances with limited free speech and harassment policies in the code of conduct. Kershna took to thefire.org, which stands for Foundation for Individual Rights in Education, to reveal this dispute, and how it was impacting his promotion to full professor. Nevertheless, the school granted Kershna a promotion after initially turning him down.

Since then, Kershna became a distinguished teaching professor in 2014. Being a distinguished teaching professor at SUNY Fredonia is no small feat. According to a prior article written about Kershna’s appointment in 2014 on fredonia.edu, SUNY Board Chairman H. Carl McCall said, “The distinguished designation, SUNY’s highest academic honor, is reserved for the best of the best ... Each professor earning the distinction has advanced his/her field while teaching and mentoring students, often collaborating and innovating with colleagues and serving society at large.”

Diving deeper into Kershna’s publi-

cations, this SUNY Fredonia professor has written works titled “For Discrimination Against Women,” “A Liberal Argument for Slavery” and even a blog post titled, “Professor-Student Sex: Permissible and Erotic.” Many more controversial publications of his can be found on philpeople.org. A book written by Kershna in 2009 titled, “Sex, Discrimination, and Violence,” contains many controversial chapters discussing these themes.

In Dec. of 2020, Kershna appeared on a podcast titled “Unregistered,” hosted by Thaddeus Russell, in which he discusses in detail whether the idea of adult males having sex with children is harmful in itself. In YouTube video “Sexual Taboos | Stephen Kershna” by Brain in a Vat, Kershna said “the notion [adult-child sex is] wrong even with a one-year-old is not quite obvious to me. There are reports in some cultures of grandmothers felling their baby boys to calm them down when they’re colicky.” The YouTube video was taken down the night of Feb. 3.

The question now becomes how far can Kershna’s right to freedom of speech protect him? Is there anything SUNY Fredonia can actually do?

On Feb. 3, the Academic Freedom Alliance (AFA), a non-profit organization that seeks to protect the first amendment rights of college and university faculty members, sent a letter to SUNY Fredonia in response to Kershna being under review. Keith Whittington, chair of the AFA’s academic committee, wrote, “There is, quite simply, nothing for the university to review under these circumstances.” He continued, “A member of your faculty under such public scrutiny is likely to be targeted for abuse and threats, and the university’s responsibility is to shelter the faculty member from that harassment and not add to it.”

However, the public feels very differently about this situation. A change.org petition has been created in response to the ongoing situation, calling for Kershna to be fired. As of the night of Feb. 3, the petition has reached over 11,000 signatures, nearly quadrupling the number of students enrolled at SUNY Fredonia.

Attempted sexual assault allegation sent to President Kolison against Dr. Stephen Kershmar

ALYSSA BUMP

Editor in Chief

CHLOE KOWALYK

News Editor

Trigger warning: This article discusses potentially triggering themes of sexual assault. Please be advised before deciding to read this article.

On the morning of Feb. 4, an allegation of attempted sexual assault was sent to SUNY Fredonia President Stephen Kolison via email.

In the email, a SUNY Fredonia alum alleged an attempted sexual assault took place in the early 2000s by Dr. Stephen Kershmar, a professor of philosophy. At the time that the alleged attempted assault occurred, the individual was a

student of Kershmar. The former student, who has chosen to remain anonymous due to the nature of the allegations, informed The Leader of the email they sent to Kolison. The Leader cannot publish the details of the allegation at this time for legal reasons.

Kolison was informed that this information would be released in The Leader via email. He was also asked if he would like to comment on the matter. On Feb. 8, Kolison commented via email, "Please be assured that the current administration takes any and all allegations seriously and directs them to the appropriate department for review and, if necessary, investigation."

Kershmar was also contacted to see if he or his attorney had a comment on the allegation or the release of it in The Leader. Kershmar is still not allowed to have contact with SUNY Fredonia students during the "investigation," in reference to Kolison's email to students and staff. However, Kershmar's defense attorney, Barry Covert, replied, "[Kershmar] indicated that you reached out to him regarding a baseless accusation of attempted assault. No such charge has ever been made against him."

Covert works for the Lipsitz Green Scime Cambria firm. According to the firm's website, Covert "represents victims of sexual abuse, including adult survivors of childhood sexual abuse. He fights on behalf of his clients to hold abusers and those who allow abuse to occur accountable. [Covert] works to ensure his clients receive the validation they deserve for the trauma they have endured."

However, this past November, Covert received media attention for his work as a defense attorney for Christopher J. Belter Jr., who pled guilty to raping four teenage girls in his home. Although Belter faced eight years of jail time for his crimes and was ruled a Level 3 sex offender, Covert assisted his client into receiving no jail time. More information about this case can be found in multiple articles online.

The Leader will continue to seek out updates about this matter.



Faculty portrait of Dr. Stephen Kershmar.

Students respond to the Kershmar situation and share their experiences

ALYSSA BUMP
Editor in Chief
CHLOE KOWALYK
News Editor

After hearing of the controversial views discussed by Dr. Stephen Kershmar, a philosophy professor at SUNY Fredonia, many students were enraged. They took to Twitter, Instagram, Snapchat and even Yik Yak, an anonymous social media forum that shows posts by people within a small radius.

One student, Olivia Sylvester, a sophomore mathematics major, created a petition on Change.org after hearing about Kershmar's several works and podcast appearances surrounding topics such as pedophilia, sexism and racism.

The petition, titled "Fire Professor Stephen Kershmar from SUNY Fredonia," encourages students to sign in support of removing Kershmar from campus. As a result of his ideas, some students no longer feel safe on campus with Kershmar as a professor. As of Feb. 6, the petition had over 15,000 signatures.

Sylvester said she started the petition after seeing Kershmar's discussions on Twitter. "I was just in disbelief about what he said... you will [see] his other publications and you'll hear what students are saying you're like, 'Oh my god, someone has to do something about this,'" she said.

Students, parents, alumni, community members and social media users that are aware of the situation are among the thousands of people to sign Sylvester's petition.

Sylvester explained that she never expected the petition to blow up. "I was

getting ready for my 10 a.m. class and just made the petition and I'm like, 'Oh, I hope maybe like 50 people to sign it, 500 max,'" she said.

However, Sylvester expressed significant concerns with starting the petition. When creating the petition, she listed her name as only "Olivia S" and didn't include her last name to give herself some anonymity. Despite this, when she was interviewed by WGRZ Channel 2, her full name was listed with the television interview.

"I almost wish I wasn't the one to make the petition, but I know that there might have not been another person who would've made it and actually followed through this far." Sylvester continued, "So part of it's an honor, and part of it's a burden. But I'm glad to be making a difference at least."

SUNY Fredonia students have been extremely vocal about this situation, both on social media and on campus. Donnie Woodard, a technical theatre major, tweeted on his personal Twitter account "SUNY Fredonia saying that Stephen Kershmar's disgusting views on pedophilia do not reflect the views of the school in any way is a BOLD statement, given that the school BOASTED on every platform they had that he was a published author (for books on this exact disgusting material)." The post received over 100 likes.

Kendall Brooks, junior childhood inclusive education major, posted on Facebook: "Education is the gateway to a better future. No professor and/or educator should hold any position of power when they can't understand women's fundamental rights... [this] institution should understand that students

pay for an education, not to feel unsafe in the classroom... As a future educator and administrator, schools and institutions need to consider the student body's perspective more." In the post, Brooks also linked the Change.org petition created by Sylvester.

Students who have previously taken courses with Kershmar have also come forward to share their experiences. Some have chosen to remain anonymous to prevent potential conflict.

One student has taken three classes with Kershmar — one last semester and the other two were taken two semesters ago. They said, "He always struck me as someone who gets a kick out of pissing people off. In fact, in his classes it was almost impossible to tell what he actually believed and what he didn't."

"In my opinion, he is a disgrace to the other wonderful members of the philosophy department, and his heinous views should not be allowed to have a place on this campus," the student added.

Matthew Spencer, a senior theatre arts major with a minor in political science and philosophy, is currently enrolled in two of Kershmar's courses: PHIL-258: Life and Death and PHIL-313: Sex and Love. Spencer explained that in his Sex and Love course, Kershmar had a "very opinionated mindset on every topic." Spencer continued, "If [Kershmar] asked a specific student, for an example, and they gave an answer that conflicted with his view on the topic or debate, he would badger them until they basically caved under the pressure of the professor repeating the question over and over again."

Spencer also spoke about how his classmates were handling this situation.

He said, “Personally, I feel uncomfortable not for my safety and existence, but for a lot of my female and younger classmates. I sit next to somebody who is a freshman in one of the classes... I’ve spoken with her privately outside of class and she is very, like scared — I think that is the best word for it — for her safety as she just got onto campus in August, and one semester in and this happens.”

Olivia Beilein-Hunt, a senior double major in journalism and public relations, was enrolled in one of Kershner’s courses in 2018 as a freshman. She was enrolled in the course to cover a Fredonia Foundations requirement. Beilein-Hunt said, “Looking back, it’s scary to think of how many other

on if I was being dramatic.” Beilein-Hunt ended up withdrawing from Kershner’s course.

Another student who is currently enrolled in one of Kershner’s classes said, “We were asked whether or not we thought that it was statutory rape for an older man to sleep with a woman who appeared older but had a mind of a minor... I said I believed it was wrong [and] he disagreed and called our age group ‘prudes.’”

This student would also like to remain anonymous. Although they would like to drop Kershner’s class, they fear not having enough credits to remain a full-time student. “I feel trapped with a professor who I don’t feel comfortable with,” the student said.

especially if they are in the philosophy program.

A student that hasn’t taken any of Kershner’s classes, who has chosen to remain anonymous to avoid repercussions, saw the circulation of the Kershner situation on social media offered some peaceful ways students can protest. “The students are in control completely,” they said. “They can stop taking his classes and withdraw from them, stop going to his classes ... and peacefully protest around Fredonia, have conversations about it, etc.”

A protest was been planned by an anonymous group of students on Yik Yak, which took place in Barker Commons on Feb. 6 at 2:30 p.m. A main cause of this protest was the ongoing



Illustration by Lydia Turcios.

freshmen have been required to learn from him.”

She detailed that Kershner would “[play] devil’s advocate and [twist] facts with fantasy. He would compare things with porn, orgies, etc.” She continued, “It was a very uncomfortable environment, but as a freshman, I had no idea of what I was supposed to expect out of college classes... I was very conflicted

However, there has been discussions about the possibility that students may be able to drop Kershner’s courses with no penalty and re-register for a different course. It is important to note, however, that the philosophy department is quite small. Spencer explained that if students drop Kershner’s courses, they may not have an appropriate class to substitute for the credits they need to graduate,

Kershner situation, but in an Instagram post about the protest, students were urged to come out to support the campus community, no matter what cause they were supporting.

An article about this protest is available on fredonialeader.org.

First Amendment and academic freedom: How does this impact the Kershnar situation?

ALYSSA BUMP

Editor in Chief

CHLOE KOWALYK

News Editor

The First Amendment states, “Congress shall make no law ... abridging freedom of speech, or of the press.” Even though the amendment reads that Congress cannot interfere with these freedoms, the Supreme Court has protected speakers against all government agencies, including federal, state and local jurisdictions. As SUNY Fredonia is a state school, not a private institution, these freedoms are protected by the state and the college.

According to Mike Igoe, an attorney and associate professor of journalism at SUNY Fredonia, “It used to be that the First Amendment was applied a little bit differently to kids and colleges and any educational setting. It was very pro-student, but now it [has] shifted the other way, in favor of pro-administration.” Pro-administration should not be confused with the undying support of professors at a university. Rather, it is the focus of the people that manage the university, such as the President’s Office.

When it comes to the First Amendment, many citizens are unsure of what limitations exist within our freedoms. Not all speech is indeed protected by the First Amendment. Some exceptions in extreme cases include: incitement, defamation, threats and obscenity. These restrictions have come to fruition through various Supreme Court cases.

Contrary to popular belief, no exceptions exist for hate speech in the First Amendment. According to an article titled “Permissible restrictions on expression” from britannica.com, “Racist threats are unprotected by the First Amendment alongside other threats ... such speech may not be specially punished because it is racist, sexist, antigay or hostile to some religion.”

However, free speech is limited on government property, as well as in government-run institutions, to a certain degree. Igoe explained that “if the government tries to restrict speech, they have to prove two things: you have to show a compelling government interest, meaning it's something important... and number two, if they restrict speech, they cannot do any more than is necessary.”

In fact, government employees, which includes SUNY Fredonia professors, could technically be fired for “saying things that interfere with the employer’s efficiency,” according to britannica.com. This means it could be argued that Dr. Stephen Kershnar, the tenured SUNY Fredonia philosophy professor in question, could be fired under the grounds of disrupting the educational process at SUNY Fredonia.

Igoe explained that “not all types of speech are protected by the First Amendment, and the types of speech and the facts of the case are a very important aspect.”

It is important to note, however, that the First Amendment may protect speakers from being censored, but it

does not protect them from facing the consequences of what they say from the public. Freedom of speech goes both ways — observers can choose to respond to what is being said through shunning, expressing disapproval and peacefully protesting.

In Kershnar’s case, the speech in question revolves around adult-child sex and other seemingly controversial topics. However, being a professor at SUNY Fredonia gives Kershnar academic freedom. As a philosophy professor, Kershnar has used the argument that part of being a philosopher and professor is to debate ideas, even those that the public may find to be extremely objectionable or offensive.

According to the Organization of American Historians, academic freedom is “the principle of freedom of expression for scholars engaged in discipline-related teaching, learning, research, publication and service.” Simply put, academic freedom protects educators’ rights to perform research and debate various topics without fear of sanction. This freedom is important for students, educators and the public as a whole because it allows the cultivation of new ideas and research.

Just like free speech, academic freedom also has limitations. According to “Defining Academic Freedom” by Cary Nelson, academic freedom does not protect an educator from investigations into allegations, misconduct or violations. It also does not protect faculty members from sanctions for “poor performance.”

On top of having academic freedom, Kershmar is also tenured. Tenure is a long-term contract with a professor that guarantees employment that can only be terminated under extraordinary circumstances. However, there are criticisms concerning tenure. Ernst Benjamin of the American Association of University Professors, argued that “tenure creates excessive social, as well as individual, costs because unproductive tenured faculty limit opportunities for new faculty and programmatic innovation.”

Tenured professors are protected from unfair layoffs, but they are not protected from being fired completely. They do have a right to a hearing before being fired, and the process to fire someone that is tenured isn’t impossible. It is just much harder to do so.

The process of being tenured standardly consists of being reviewed six years after starting the position. According to academicpositions.com, the review looks into a professor’s contribution in three areas — research, teaching and service to the university. The professor also must put together a dossier, which normally consists of a CV, publications, a teaching portfolio and a few other things that summarize why the professor is fit for tenure. Simply put, the tenure process is normally complex and hard to do. It reviews everything a professor has done that makes them deserving of the tenure title.

Some have been critical of the fact that Kershmar was ever tenured in the first place. According to a post on Twitter from @kirbywyrd, “The fact that Stephen Kershmar has tenure makes me respect the concept of tenure even less.”

Igoe described the Kershmar situation as being a three-pronged event. “You’ve got the First Amendment. You’ve got academic freedom. And then, you’ve got what will the school do?” As of Feb. 5, neither the college nor the union have taken action against Kershmar, and the union likely won’t take action until the university does so first.

On Feb. 3, SUNY Fredonia’s president Stephen Kolison wrote this in a statement to all students, faculty and

staff via email: “Please allow me to reiterate my earlier statement that I view the content of the video as absolutely abhorrent. I cannot stress strongly enough that the independent viewpoints of this individual professor are in no way representative of the values of the SUNY Fredonia campus.”

Igoe believes that “Kolison is absolutely within his rights to speak out against the fallout from this.” Kolison too is protected by the First Amendment, which allows him to separate the values of the college and those of

Kershmar. Kolison is “within his rights,” according to Igoe, by creating a division between the university’s views and Kershmar’s views — since Kershmar’s comments on podcasts and in his blogs may have created an environment that makes students and colleagues feel uncomfortable.

While many people want Kershmar to be fired, this situation is more convoluted than it appears upon first glance. There are several factors at play, and this process will most likely take some time before it is fully resolved.



"Bald Eagle - Illustration" by DonkeyHoney is licensed under CC BY-SA. 2.0.

Professors' **varying** views on Kershnar uproar

ALYSSA BUMP

Editor in Chief

CHLOE KOWALYK

News Editor

Several SUNY Fredonia professors have voiced their opinions about the recent news regarding their colleague Dr. Stephen Kershnar. This past week, a video on Twitter from @libsoftiktok showed Kershnar appearing on a podcast where he discussed topics such as adult-child sex. Along with the resurfacing of this podcast on Twitter, several of Kershnar's books, blog posts and other works have entered the public eye once again.

With differing views circling on academic freedom and the First Amendment, numerous SUNY Fredonia professors have not shied away from expressing their opinions.

Dr. Neil Feit, a distinguished teaching professor at SUNY Fredonia, has taught in the philosophy department for over 20 years. Feit was emailed a request for an interview with The Leader on the Kershnar situation, which he politely declined. However, he did provide us with a message he sent to President Kolison.

In the message, Feit was responding to Kolison's message to the campus from Feb. 3 where he announced Kershnar has been assigned duties off campus and that the situation would continue to be investigated. Feit wrote to Kolison, "Everything that has recently provoked outrage on this matter is very clearly constitutionally protected speech, and SUNY Fredonia is a public university. There is no basis for this matter being reviewed or investigated, and there is no basis for sanctioning Dr. Kershnar in any way."

Feit also included a link to a Daily Nous post titled, "Kershnar Cycle Reactivated (several updates)." According to their "About" page, "Daily Nous provides news for and about the philosophy profession, useful information for

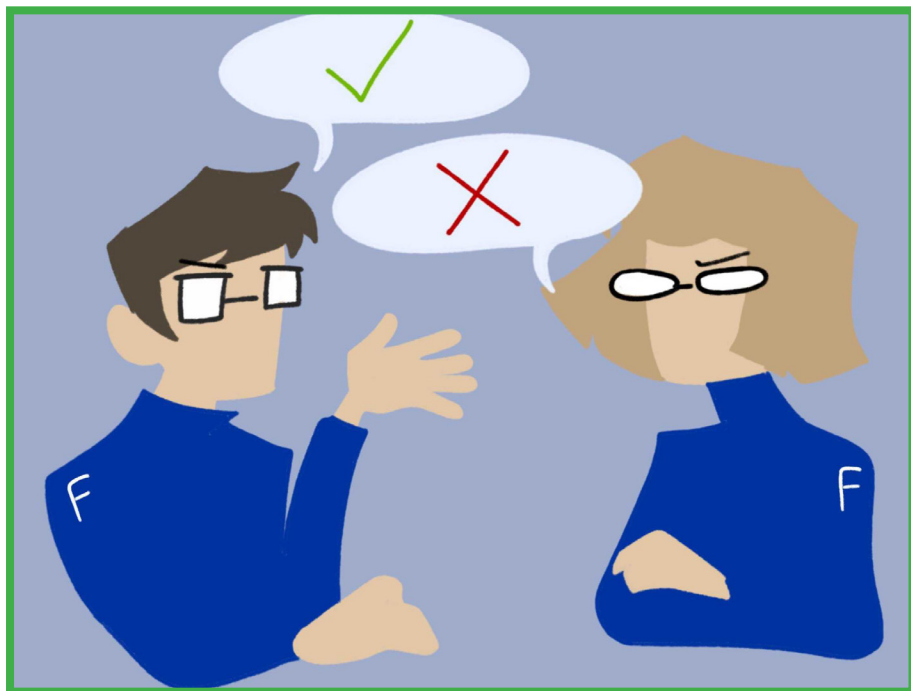


Illustration by Lydia Turcios.

academic philosophers, links to items of interest elsewhere and an online space for philosophers to publicly discuss it all."

The post started out by explaining what they say the "Kershnar Cycle" is. Simply put, the post explains that every few years, people discover the work Kershnar has done as a philosopher. People are shocked by it. They tend to feel outraged and share their disapproval. That is, until there's something else to discuss and Kershnar is forgotten about once again.

The author of this post, Justin Weinberg, wrote, "Kershnar Cycles, like hurricanes, come in varying strengths. Typically they're... mild. This time, however, it's more severe, as the cycle appears to have been initiated by a very popular social media account, @LibsofTikTok, which shared a selectively edited video of an interview with Kershnar, titles of some of his articles and called for him to be fired."

The post continued by pointing out how Kershnar shapes his philosophical arguments around adult-child sex. It also shows written instances where Kershnar himself has said he does not support adult-child sex.

Weinberg finished the original post with, "Raising questions about sacred beliefs is one of the ways philosophy is especially valuable. That Kershnar has dedicated his career to this value (in ways that may have been personally or professionally costly to him) gives his fellow philosophers a further reason, apart from academic freedom, to defend him, even if they disagree with his conclusions." The post has since been updated several times.

Another SUNY Fredonia professor, Dr. Darrin Rogers, has also voiced his opinion.

Rogers is an associate professor in psychology and earned his Ph.D. in child and adolescent clinical psychology from Ohio State, where he did research

in direct child victim focused sexual aggression and sexual abuse research as well as clinical work. He has been trained as someone who studies offenders and offending.

"I'm fully in favor of academic freedom," Rogers said, "and I think even difficult and uncomfortable topics should be explored."

However, Rogers' main concern with Kershner's discussion was Kershner's lack of judgement about how to discuss topics of this manner. Rogers said, "I do not believe that he showed good judgement or responsibility [regarding] when and how he made these comments and what audience he made them to."

Rogers also pointed out that many of Kershner's arguments are factually incorrect: specifically Kershner's reference to adult-child sex as being "unharmful."

"If you do good research, you find that yeah, this causes harm," Rogers explained. "But it gets messy because [the research is] realistic... not everybody experiences terrible consequences for the rest of their lives, [but] some people do."

"It was frustrating to me to see him make these comments, especially the comments that this doesn't cause harm... his comments were [in direct] contradiction to a large amount of research on this," Rogers said. "I think he's wrong about harm. I think he's irresponsible to wander off on these interesting philosophical musings and his philosophical musings always end in a place, I think, at least from what I've seen, that is shocking and horrifying."

Rogers further explained, "You'd make the world a better place by using science and sound judgment to figure out why [pedophiles] have these thoughts and feelings, [and] how to manage them, so they don't turn into behaviors."

Dr. Bruce Simon, an associate professor in English, voiced his criticisms of those who've criticized Kershner on Facebook. In his post, Simon also linked a review of the situation posted by Rogers on Facebook to provide more information on the topic.

In his post, Simon wrote: "So, yes, of course his positions and arguments

First, Simon explained that Kershner's critics have "cast a contrarian libertarian conservative as a liberal or progressive." This point reflected the labeling of Kershner as a liberal by some news outlets' viewers due to his employment at a liberal arts college.

Simon also criticized those who demanded SUNY Fredonia ignore the First Amendment and campus policies and "fire [Kershner] for his extramural speech without proof of adequate cause or any due process."

Simon also added that many of Kershner's critics have demanded that "politicians punish SUNY for hiring, reappointing and promoting him," and have cited Kershner has a poster child for the misuse of taxpayer dollars, which could delegitimize and defund public higher education institutions like SUNY Fredonia.

Also, some of Kershner's critics have described those defending Kershner's free speech as either "secretly agreeing with him, being complicit in his thoughts and crimes or protecting a pedophile," according to Simon.

Finally, Simon explained that because Kershner is Jewish, several posts depicting anti-semiticism have shown up as a result of the situation.

Mike Igoe, an associate professor of journalism at SUNY Fredonia and an attorney, was reached out to by WDOE radio and WKBW TV for an interview. During a separate Zoom interview with The Leader, Igoe referenced what he told those two news organizations. "I said, 'I don't really want to get into his case at all, because there's too many things [at play] right now...' So, I will talk strictly about the First Amendment."

Igoe made the point that not all types of speech are protected under the First Amendment. He also explained that there are a lot of separate issues simultaneously working together in Kershner's case. "There's employment contracts, union contracts, academic freedom... it's a very involved story in many respects." Igoe also points out that The U.S. Supreme Court has allowed speech to be restricted by school administrators if they feel it disrupts the learning environment and conflicts with the school's values.

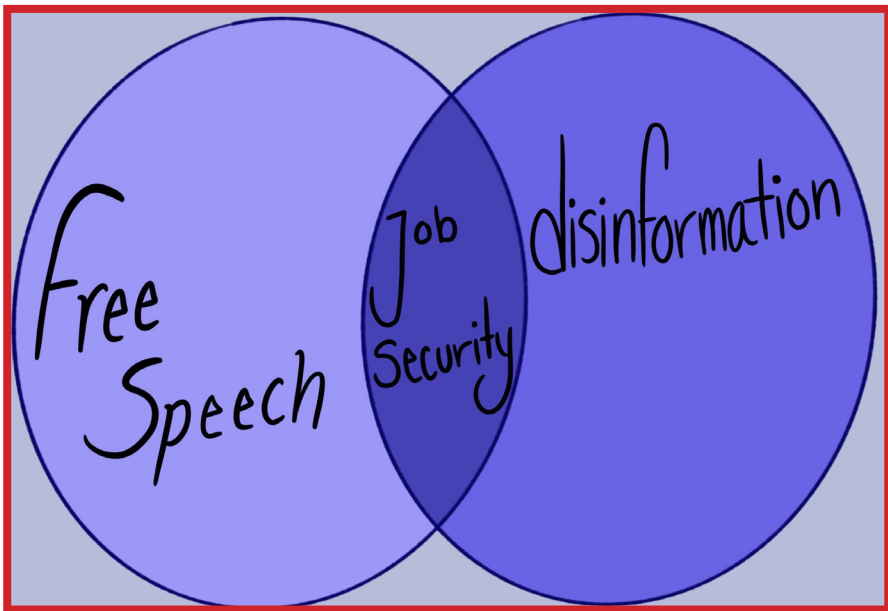


Illustration by Lydia Turcios.

Rogers also cited that many organizations across Europe and the United States that advocate for adult-child sex may latch onto information such as the discussions put out by Kershner that are not entirely factual, and use them as a sort of justification.

deserve severe criticism. And what I find truly terrifying about the online ire aimed at him right now... is how eager his most vehement critics are to..." followed by a list of criticisms about how Kershner's critics have handled the situation.

OPINION

Pesky politics: How the Kershnar situation became an online political battleground

CASEY HUBER

Special to The Leader

Philosophy professor Stephen Kershnar has been lambasted by many, but for varying reasons.

His views on pedophilia are being lumped together with his political ideology, but you will get different perspectives on what exactly Kershnar believes depending on where you go.

Twitter is a toxic cesspool and I hate it, but it is the place to go to find different points of view on the Kershnar scandal.

Unfortunately, it is not hard to find defenders for Kershnar.

“He’s a professional philosopher playing Devil’s Advocate — that’s what philosophers do,” verified Twitter user @clairlemon posted (Clair Lehmann was suspended from Twitter). Important to note, Lehmann is apparently part of the intellectual darkweb, a group who reject the alleged leftist agenda.

From what I have found, Kershnar is being defended on the grounds of free speech, not for what he actually said (or for that matter, believes).

In some cases, there is an odd focus on Kershnar being Jewish.

“Stephen Kershnar, a Jewish professor who has written books in support of pedophilia, abortion, slavery and much more on purely ethical grounds,” Twitter user @PunishedMaajid posted.

Posts like these are concerning, as the anti-semitic undertones are bad in their

own right but also tend to shift responsibility of the content that Kershnar says toward that group.

However, Twitter is not the only place to find opinions on the Kershnar scandal.

Mainstream media across the globe have also jumped on the Kershnar scandal. What is particularly interesting is how Fox News has handled the situation.

A comment on one of the Fox articles published on the Kershnar scandal reads: “Don’t be fooled. THIS is where unchallenged progressive views have led, and conservatives can no longer ignore these perverse opinions. Get in touch with your local and state representatives now.” This perception that Kershnar is another ‘left-leaning wacko’ is being cultivated by outlets like Fox, and this idea is dangerous but not new.

While Fox may not have explicitly called Kershnar and his reprehensible ideas leftist, they have not dissuaded the commenters from thinking this way.

If you’ve taken a class where there was a discussion of the impact of fake news in the media, you probably already know where I’m going with this. In the event that Fox News is your only source of news, you may not like what is about to be discussed.

Before we talk about Fox, we should talk about misinformation in general. Misinformation is important to understand because of how pervasive it is in our society. It’s hardly a new concept, with yellow journalism being prevalent

in the 19th century. The Spanish-American War is argued by historians to have been spurred on by sensationalist headlines and disinformation campaigns.

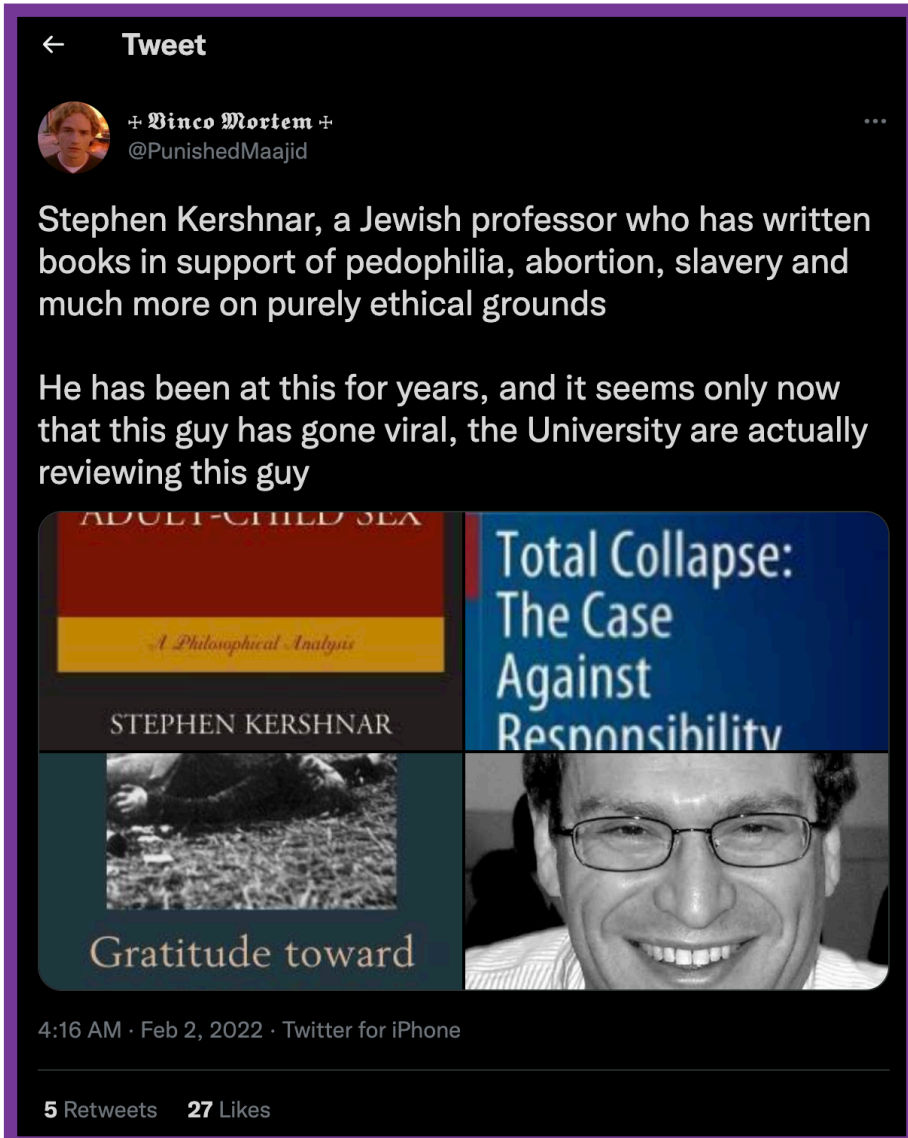
Misinformation is different from disinformation in terms of context. Misinformation is information that is inaccurate on its own, often due to being taken out of context. Disinformation is intentionally wrong and often is used to further a political agenda. Both forms are designed to mislead the reader.

During the 2016 election, much of the disinformation that spread through the U.S. was born in Russia in order to “sow distrust in American democracy overall,” according to TIME magazine.

So, if Fox is to be accused of spreading misinformation, or even disinformation, do they have a motive? Short answer: yes. Long answer: Fox is a business-first entity, and thus prioritizes making money over all else. Fox makes money by selling eyeballs, specifically the eyeballs of conservatives.

Fox being a business must cultivate its viewership to maintain it. Conservative eyeballs are best cultivated by content that is both familiar to them and perpetuates beliefs they have already accepted.

It is easier for people to believe information that aligns with pre-existing beliefs in a phenomenon called confirmation bias. Everyone is prone to this effect, but how heavily you rely on your daily dose of confirmation bias correlates to how hard it is to see new points of view objectively.



@PunishedMaajid tweet.

There is a capital “T” Truth to information — what happened is what happened, nothing more or less. That being said, the way we communicate information is inherently flawed by means of internal bias. Everyone has a bias, but how (or if) we control it says a lot about how we value information.

Fox has a bias and the way the news outlet controls it tells me that it values information like a commodity: something that is a means to an end, the end being money.

Bringing it back to the Kershnar scandal, we can analyze the perception that Kershnar is a ‘left-leaning wacko’ who is symptomatic of the liberal agenda through a liberal arts college.

Is he? No.
Kershnar, with all the evidence I’ve gathered, seems to align with libertarian ideology. Contrary to popular belief, libertarians are not necessarily left-leaning, according to SUNY Fredonia political science professor Raymond Rushboldt.

Rushboldt defined the general libertarian belief as the idea that “the government shouldn’t interfere with your expression of individual rights, however most people would agree that the government has a role for protecting individuals from the consequences of dangerous behaviors,” Rushboldt said.

On Kershnar’s blog titled Objectivist v. Constructivist v. Theist, he published articles in favor of student-professor sexual relationships from 2010 to 2016 as well as articles like “Against Diversity,” where he argues that racial diversity “does not correlate with wealth, happiness, peace or other indicators of human flourishing.”

More evidence that Kershnar is a libertarian lies in another blog post titled “National Disgrace #1: Massive Incarceration,” where he argues against government drug prohibition and suggests that drugs such as crack cocaine should be legal.

So when conservatives claim that Kershnar is a leftist, look at the evidence for yourself. From what I have found, Kershnar seems to be a libertarian, likely right-wing given his view on race (see “Against Diversity” above).

“Look at the evidence yourself” being said, Kershnar’s blog is horrific to me. Prepare yourself for an experience if you plan on reading his work.

EXHIBIT D

From: "President's Office" <president.office@fredonia.edu>
Sent: Fri 2/4/2022 8:47:52 AM (UTC-05:00)
Subject: Fwd: Dr Kolison You Dropped the Ball and Stained Fredonia
To: Listen Unknown <listen@fredonia.edu>

----- Forwarded message -----

From: **Robert Szkutak** <szku7987@fredonia.edu>
Date: Thu, Feb 3, 2022 at 4:41 PM
Subject: Dr Kolison You Dropped the Ball and Stained Fredonia
To: <president.office@fredonia.edu>, alumni.office@fredonia.edu <alumni.office@fredonia.edu>

Dr Kolison,
Your response this afternoon regarding Stephen Kershner completely ignored and invalidated the primary concerns with him.

Your statement mentioned only the video interview.

You have ignored:

- That he published a book promoting pedophilia
- A published paper arguing slavery is morally acceptable
- A published paper arguing pedophilia is morally justifiable
- A published paper arguing it is ethical to pay women less in the workplace
- A published paper promoting that military veterans deserve no gratitude

Further, you ignored that he received tenure in spite of many of these materials being available for a decade and more.

While I understand you have only been President 2 years, your response completely ignored long-standing concerns around Fredonia's academic culture.

If you intend to demonstrate and reassure that Fredonia is a safe and inclusive environment please immediately fire Stephen Kershner. Blanket statements ignoring his most heinous content instead suggest you endorse him.

I graduated from Fredonia nearly 10 years ago and have since financially supported the university, referred countless prospect students and championed helping the CS department receive additional state funding. I will never do anything to Fredonia's benefit ever again unless Stephen Kershner is immediately suspended and then fired.

Perhaps you should also consider resigning too over your limp writes handling of this situation Dr Kolison.

Sincerely,
Robert L Szkutak II
Class of 2013

EXHIBIT E

From: "President's Office" <president.office@fredonia.edu>
Sent: Thur 2/3/2022 8:21:24 AM (UTC-05:00)
Subject: Fwd: Stephen Kershner
To: Listen Unknown <listen@fredonia.edu>

----- Forwarded message -----

From: **Jennifer Kellner** <apexkellner@icloud.com>
Date: Wed, Feb 2, 2022 at 11:14 PM
Subject: Stephen Kershner
To: <president.office@fredonia.edu>

Dear President,

I am writing you this letter to ask you, why you would you and your college allow any professor teach on your campus who believes sex with minors is consensual? What I know is over 800,000.00 children are stolen from their homes and families and used in the sex trade market. I am certain if we look at this monsters bank accounts I am certain is part of this.

This piecoshito, is promoting child rape and is linked to you and your very shady campus. It also is coming out about the global sex trade and adrenochrome markets in the world. You and that piecoshito may know about this epidemic. You two maybe promoting it and sending money?

Adrenochrome, comes from babies pituitary gland. In order for sickos pedos, murderers to drain it, they torture children. So your college is probably covering for that pisoshito professor where this information has been announced to the world, just today.

I DEMAND a full investigation of your college and the professors who are promoting child rape, child satanic murder. Who would ever allow the devil to infiltrate campuses, but you did. His mission is to indoctrinate students into perversion, satanic cults and worse to harm babies.

Shame on you, you should resign. We the people are coming for all of the evilness. If your campus is to move forward, I demand to see in the news paper that a investigation of this pervert has started.

Again resign because you have allowed this demonic activity to take place on campus. I am hopeful as so many of you are arrested, tried, sentenced and hung. You have no right to walk on this earth. You sir, are disgusting. I will be sharing this letter with many.

Sincerely,
Jennifer Kellner
apexkellner@yahoo.com

From: Dawn Hunt <Dawn.Hunt@fredonia.edu>
Sent: Wed 2/2/2022 11:05:39 AM (UTC-05:00)
Subject: Fwd: SUNY defends and encourages the crime of raping children?
To: Listen Unknown <listen@fredonia.edu>

----- Forwarded message -----

From: **Jennifer Hoffman** <jennifer.hoffman11@gmail.com>
Date: Wed, Feb 2, 2022 at 1:01 AM
Subject: SUNY defends and encourages the crime of raping children?
To: <president.office@fredonia.edu>

Dear President Kolison,

As a parent and grandparent I am disgusted by the comments made by Stephen Kershmar about the acceptability of child and infant sexual exploitation.

I am appalled that this pervert is allowed to teach at any university.

His monstrous comments encourage those whose perversions include the sexual exploitation of infants and children and that is a crime.

I am well acquainted with those who try to sexually exploit children as one of them tried to groom my 9 year old son many years ago. He thought I was a stupid, unaware single mother and I would not notice or I would let him have his way. He changed his perception when I told him I would shoot him if he ever came near my child again, and I meant it. My father was a military sniper and I don't miss.

I am not alone in the desire to defend any child from these monsters and that includes Kershmar.

You must issue a stronger statement than trying to protect the university, what he said puts children at risk and I know many parents who would not hesitate to take lethal action against anyone who tried to sexually exploit their children.

Anyone who encourages, promotes, or enables the sexual exploitation of children is guilty of accessory to criminal activity and that monster Kershmar needs to be removed from his job and prosecuted for child endangerment.

He really believes it is OK to sexually exploit a 1 year old baby because he just doesn't think there is anything wrong with it.

Does SUNY have any moral compass because it sure doesn't appear to be the case.